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DEPARTMENT FOR G/TIP, G, INL, DRL, EUR/PGI, EUR/SE

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SUBJECT: TIP IN TURKEY: UPDATED MFA COUNTRY REPORT ON  
TRAFFICKING IN HUMANS

1. (U) In response to G/TIP inquiries about anti-TIP public information campaigns, post provides the following TIP Country Report produced by the Turkish MFA's National Task Force on Human Trafficking. The Report is available on-line at the Ministry of Foreign Affairs website:  
<http://www.mfa.gov.tr/>.

2. Turkish MFA Country Report on Human Trafficking (June 2004):

TITLE: Updated Country Report of Turkey on Trafficking in Human Beings Introduction

BEGIN TEXT: During past decades, organized criminal groups have increasingly taken advantage of globalization and technological developments and expanded their activities worldwide by employing sophisticated strategies. Accordingly, organized crime, including human smuggling and trafficking in human beings, have become more transnational and complex in nature. Therefore, combating these activities requires comprehensive strategies dealing with all aspects of prevention, prosecution and protection, as well as firm and effective international co-operation and co-ordination.

Organized crime activities are interrelated. Criminal networks behind human smuggling and trafficking in human beings are at the same time involved in one or more other forms of organized crime such as drug trafficking, document fraud and money laundering.

Also, once they establish their network and connections, they easily shift the focus of their business from one form of crime activity to the other depending on their calculation of risk and profit at a given time. In this respect, it is currently recognized that trafficking in human beings is rivaling drug trafficking and arms smuggling in higher profitability for lower risk. There are also evidences demonstrating the fact that some terrorist organizations resort to organized crime activities as a source of finance. This state of affairs calls for an overall fight against all forms of organized crime activities and terrorism, not prioritizing one over the other in international co-operation and co-ordination efforts.

On the other hand, a multi-disciplinary approach is required particularly in the combat against trafficking in human beings and human smuggling, including appropriate social and economic measures which will address their root causes such as poverty, economic disparities and unemployment in the countries of origin and the demand for sexual exploitation and for inexpensive, socially unprotected and often illegal labor in the countries of destination. In achieving this, political will and collective efforts by origin, transit and destination countries are crucial.

A distinction should however be made between human smuggling and trafficking in human beings due to their own specifics. This report deals only with trafficking in human beings.

#### The Situation in Turkey

Turkey, at the crossroads of Asia, Middle East and Europe, bordering eight countries and lapped by 5,000 miles of coastline, has seriously been confronted with various forms of transnational organized crime, which pose a threat to its social order and human and democratic values.

The situation in Turkey vis a vis human smuggling and trafficking in human beings is most often confused with each other. Although Turkey is a transit country for "migrant smugglers", no particular link has been discovered as to the existence of organized transit trafficking activity or trafficking networks operating on the Turkish territory.

On the other hand, in recent years Turkey has become a destination country for nationals of transitional democracies, who are in search of better living conditions and job opportunities abroad in the face of conflicts or economic and social hardships prevailing in their own countries.

Countries surrounding Turkey from the North to the Northeast are generally accepted as countries of origin. Nationals of these countries may enter Turkey by a visa obtained at border gates and may stay in Turkey for up to one month. Their purpose is twofold. Mostly, they travel to Turkey for "suitcase trading", the volume of which has reached considerable amounts during past years. Secondly, they come to Turkey in search of job opportunities, which were available for them only in illegal labor markets until recently.

While their presence in Turkey is generally voluntary, their illegal work and resident status, nevertheless, make them vulnerable to exploitation. Some of them obtain legal residency through arranged marriages. Some others end up in small workshops, in tourism and entertainment sector or in private households, working illegally without any job security, insurance or administrative and judicial safeguards. According to statistics, majority of male workers are employed in the construction sector and females in domestic services.

#### International obligations

In addition to many longstanding international instruments dealing with "white slave trade" and "trafficking in women and children", Turkey is a party to the Convention on the Rights of the Child. According to Articles 34 and 35 of the Convention, States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse and to take all appropriate national, bilateral and multilateral measures to prevent inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices, the exploitative use of children in pornographic performances and materials and the abduction of, sale of or traffic in children for any purpose or in any form.

On 9 May 2002, the Turkish Grand National Assembly also adopted the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

In Palermo, on 13 December 2000, Turkey was among the initial signatories of the UN Convention against Transnational Organized Crime and of its two additional Protocols including the Protocol to Prevent, Suppress and Punish Trafficking, especially women and children. Turkey ratified both the Convention and its additional Protocols on 18 March 2003.

By adopting these international instruments Turkey clearly indicated her political will to combat against trafficking in human beings in co-operation with the world community and commits herself to translate the provisions included therein into its own legislation.

#### Legal framework

While voluntary individual prostitution is legal in Turkey, incitement to prostitution and trafficking in human beings are described as crimes and are punishable under the Penal Code and the Law on Combating Benefit-Oriented Criminal Organizations. Additionally, certain provisions of the Passport Law and the Law on the Prevention of Money Laundering contain provisions that apply to trafficking cases. Administrative decrees and regulations build on the legal basis with a focus on implementation.

Article 201 of the Penal Code, as amended in August 2002, includes the definition of trafficking in human beings and prescribes heavy penalties for traffickers, including 5 to 10 years of heavy imprisonment. The amended article (Article 201/b) reads as follows: "Article 201/b - Those who provide, kidnap, take or transfer from one place to another and house individuals with the intention of making them work or serve by force, subject them to slavery or similar treatment, threaten, pressure, use force or coercion to persuade them to give up their bodily organs, use undue influence, secure their consent by deception or by exploiting the desperation of such individuals shall be sentenced to five to ten years of heavy imprisonment and a heavy fine of not less than one billion Turkish

Liras.

If the actions that constitute a crime are attempted with the intentions described in the first paragraph, the victim is assumed not to have given his/her consent.

If children below the age of eighteen are procured, kidnapped, taken or transferred from one place to another or housed with the intentions specified in paragraph one, even when no intermediary actions relating to the crime are committed, the penalties foreseen in paragraph one shall still be applied to the perpetrator.

If the crimes listed in the paragraphs above are committed as an organization, the penalties foreseen for the perpetrators shall be doubled."

The Law on Combating Benefit-Oriented Criminal Organizations, on the other hand, criminalizes establishing, promoting, leading or participating in benefit-oriented criminal organizations with a view to carrying out organized crime activities, which could include, inter alia, trafficking in human beings. In order to combat criminal organizations, the law empowers the investigative authorities with special procedural techniques such as tapping or intercepting telecommunications, clandestine surveillance, reviewing records and data, and employing secret agents. However, to safeguard respect for human rights, judicial decree is sought before implementing such measures. Protective measures are available for witnesses. In trans-boundary and organized cases of trafficking in human beings, like in any other organized crime activities, perpetrators are tried before the State Security Courts, whereas individual cases of incitement to prostitution fall under the jurisprudence of the courts of justice.

According to Article 8 of the Passport Law, foreigners who are engaged in prostitution, or earn their living by inciting women into prostitution, and those involved in trafficking in women are denied entry to Turkey.

The Turkish Parliament has approved the Amendment to Article 5 of the Citizenship Law on 4 June 2003. With this amendment, a probation period of 3 years is required for acquiring Turkish citizenship through marriage. Accordingly, those who have a job incompatible with the marriage and do not share the same house with his/her spouse will not be able to acquire Turkish citizenship. The Law on Residence and Travel of Foreigners in Turkey, on the other hand, allows entry of the child under 18 to Turkey only when accompanied by or with the permission of their parents or legal guardian.

#### Legislative review

In September 2003, a new Law on Working Permits for Foreigners entered into force. The law increases legal employment opportunities for foreigners in Turkey, by permitting their work under limited, unlimited or independent work permits. Employment in domestic services is also made possible. The Ministry of Labour and Social Security is authorized to issue all forms of work permits for foreigners to ensure better management and control over the process. The law aims at providing legal protection for foreigners against exploitation in labour markets and extending legal and administrative safeguards to private services.

#### National coordination and international cooperation

In Turkey, Ministry of Foreign Affairs is responsible for national coordination of issues related to trafficking in human beings. The Ministry chairs the National Task Force on Combating Trafficking in Human Beings, which is composed of experts from concerned ministries and NGOs such as the Human Rights Presidency of the Prime Minister's Office, the Foundation for the Development of Human Resources (IKGV), the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Justice, the Ministry of Labour and Social Security and the Directorate General of the Status and Problems of Woman.

The National Task Force was convened for the first time in October 2002 and had five more meetings, last being on 18 February 2004. The National Action Plan, prepared by the Task Force is already under implementation.

The Directorate General of the Status and Problems of Woman, on the other hand, provides co-operation and co-

ordination with the non-governmental organizations. In accordance with the National Action Plan, the non-governmental organizations active in the field of protection of foreign victims of human trafficking, are encouraged and supported with the best means possible.

Turkey supports all international efforts aimed at combating trafficking in human beings and actively participates in activities of the OSCE, the Council of Europe, NATO and the Stability Pact Task Force on Trafficking in Human Beings. IOM, ICMPD, SECI and EUROPOL are other main co-operation partners of Turkey in this area.

In this framework, Turkey participated to the seminar organized by the European Council in co-operation with the "Gender Development Association", a Georgian NGO, on 6-7 November 2002 in Tbilisi on fight against trafficking in South Caucuses. Ukraine, Georgia, Armenia, Azerbaijan, Italy and IOM Georgia also attended the seminar.

Turkey also participated in the regional Validation Seminar that has been organized on 15-16 November 2002 in Bucharest regarding the project on publication of the Regional Anti-Trafficking Law Enforcement Manual. Turkish judges have participated in the programme for the "Development of an Anti-Trafficking Module for Judges and Prosecutors" organized by the Stability Pact and the ICMPD on 10-13 April 2003 in Sofia and the follow-up seminar of the same program on 17-19 November 2003 in Sofia.

Turkish experts also participated in the Experts Group meeting organized on 16 May 2003 by the European Union in Brussels.

Turkish experts are participating to the ongoing meetings of the ad-hoc committee (CAHTEH), which is entrusted to prepare a Convention Against Trafficking in Human Beings.

Further co-operation possibilities are considered particularly with the IOM on a project basis in areas of awareness raising, national referral mechanisms, victim protection, and voluntary return and reintegration assistance.

In this framework, Turkey is not only participating but also co-funding the project on "Establishment of the Network of and Joint Training for Operational Law Enforcement Officers, NGOs and International Organizations in Fighting Human Trafficking into the EU Member States from EU Accession Countries and Countries Bordering the EU after Enlargement" which is implemented by IOM, in cooperation with the European Commission (EC), European Parliament (EP), selected EU Member States, as well as the Candidate Countries and Third Countries bordering the enlarged European Union under the European Commission Directorate General Justice and Home Affairs' AGIS Programme 2003.

Designated focal point for general international contacts in counter-trafficking efforts is the Director General of Consular Affairs of the Ministry of Foreign Affairs. The Ministry of Interior, on the other hand, has appointed national contact points to cooperate with the Stability Pact Task Force in areas of awareness raising, exchange of expert information, law enforcement and victim protection. Contact point from the Ministry of Justice has assumed co-ordination on legal reform.

Turkey is offering bilateral co-operation initiatives to the main countries of origin, whose nationals target Turkey in search of better standards of living and become vulnerable to exploitation of organized trafficking networks. Bilateral agreements between Turkey and countries like Azerbaijan and Ukraine on combating organized crime also provide legal framework for co-operation in the fight against trafficking. Turkey renewed her wish to cooperate on this issue by sending a Note Verbal addressed to the Embassies of source countries in Ankara. In this regard, a draft protocol on cooperation in combating trafficking in human beings is proposed to these source countries on November 20, 2003. So far, the positive responses of Belarus and Ukraine have been received.

A Twinning Project on "Strengthening Institutions in the Fight against Trafficking in Human Beings" has been developed under the European Union 2003 Pre-accession Financial Assistance Programme. The overall objective of the project is to meet the minimum standards for the elimination of trafficking in human beings and

strengthen the institutions dealing with trafficking. The planned duration of the project is 18 months. The proposal of the Federal Republic of Germany has been accepted, within this proposal the short-term expertise of the Austrian team will also be provided.

On the other hand, visa application measures are set in order to prevent fake certificates of good services issued by some companies in the countries of origin to be used in the entertainment sector, such as in casinos or hotels. In this respect, a questionnaire is prepared to obtain detailed information on the identity of visa applicants. Visa applicants are requested to fill in and sign in this questionnaire. The aim of the questionnaire is to determine whether or not the certificates of good services are authentic. The Ministry of Foreign Affairs of the States concerned has to certify the authenticity of these documents before Turkish authorities accept the said documents.

#### Current activities and needs for improvement

##### - Prosecution of Traffickers

In Turkey prostitution is legal and is considered as a personal matter of the individual. It is, however, prohibited for foreigners.

Although incitement to prostitution and trafficking in human beings are crimes that require heavy penalties under Turkish Penal Code, since the victims tend to hide or deny their cases due to traditional and ethical reasons or security concerns, identification and/or prosecution of those responsible for these crimes is difficult. Without victim's assistance and testimony, legal action against criminals becomes impossible.

In the meantime, police has initiated action against 40 enterprises in the entertainment sector upon suspected human trafficking activities. Investigations are underway.

##### -Victim Protection

As a major step, the Ministry of Interior signed a protocol on 4 September 2003 with the Foundation for the Development of Human Resources (IKGV), a well-established non-governmental organization that actively involves in projects aimed at improving social and health conditions and assists to victims of trafficking in human beings. The protocol includes provisions on the establishment of shelters and a center to provide victims with psychological and medical counseling, the establishment of a regional network involving NGOs also from the countries of origin and on awareness raising activities. According to the protocol, the security units will inform the IKGV when they identify a victim of trafficking. Representatives of the IKGV will communicate with the victim and provide the victim with medical and legal assistance.

The Turkish Government, with its limited resources, provides, if necessary, accommodation and emergency services including psychiatric services, out of national budget and funds. The Ministry of Health has made the necessary arrangements in order to provide medical treatment free of charge to victims of trafficking in human beings. A decree to this effect has become effective on 2 January 2004. The Ministry of Interior is developing an improved screening method in order to identify victims of trafficking and to address their specific needs. A questionnaire with the cooperation of the MFA and the IKGV has been prepared to this effect. At the National Task Force meeting members were asked to elaborate additional criteria to be included in the questionnaire.

Moreover, victims who would like to return to their country are not subjected to pay a fine due to their illegal overstay.

Women who are not identified as victims of trafficking in human beings go through a process that includes a thorough compulsory medical check at hospitals. Multiple tests are conducted to confirm the diagnosis in cases of infection. Tests are completed within one day. In curable cases like syphilis, treatment is also concluded. Final test results should be available before repatriation.

The National Task Force is working on a special arrangement to allow allocation of funds from the Social Aid and Solidarity Fund of the Prime Ministry,

which is designed to provide aid to Turkish citizens in need of help and, if necessary, to those who entered to Turkey. When finalized, foundations established by the Fund in 931 towns will be able to assist victims of trafficking under this arrangement.

To address the specific needs of the children, a new Department for Children Affairs has been established within the Ministry of Interior. Accordingly Children Protection Units have been designated in 81 cities.

#### - Repatriation

Certain difficulties are experienced in the safe return of victims to their countries of origin. It takes between 10 days to 2 months to obtain necessary travel documents. Difficulties are also encountered in covering travel expenses due to lack of special funds.

The Ministry of Interior authorized governorates to issue the victims of trafficking with a humanitarian visa and temporary residence permit where necessary in order to allow them to stay in Turkey for rehabilitation and treatment. So far, 22 victims were issued with such permits.

The Ministry of Interior has authorized governorates on April 9, 2004, to extend the duration of temporary residence permits up to 6 months for the victims of trafficking. In case of necessity, this duration can also be prolonged.

#### - Researches and Statistics

A special questionnaire was prepared and sent over to 10.000 courts nationwide. Another questionnaire to collect detailed data on sentenced criminals and on trafficking victims has also been sent out. According to Article 201/b (human trafficking) of the TPC the final processed data regarding the cases that were transferred to the criminal courts in 2003, is as follows:

27 lawsuits have been initiated, 13 of which has been concluded and 14 of which have been transferred to the 2004. The number of accused persons within the 13 concluded lawsuits is 31 and the total number of the plaintiffs is 48.

#### - Awareness Raising/Media Coverage

Turkish media is sensitive to criminal and humanitarian aspects of trafficking in human beings. Trafficking cases and international developments are reported widely in the media.

Awareness raising activities are focused on official targets such as law enforcement authorities. In addition to training programs, various events were organized to raise awareness and interest on the issue.

In this respect, the Enlarged Council of the International Women Lawyers Federation, which was held in Turkey on 1 September 2001, had trafficking in human beings as the special topic on its agenda. The President of the Republic of Turkey, Mr. Ahmet Necdet Sezer and the Minister of Justice opened the meeting. 150 women lawyers attended the meeting and a final declaration was adopted.

The Directorate General of the Status and Problems of Woman organized two panels on 19 December 2002 and 18 December 2003. Chiefs of Security of several cities, several NGOs and local press representatives participated in the said panels. During the panels, a consensus on establishing cooperation to combat human trafficking between NGO's representatives and Governorates has been reached. Similar panels are planned to be organized in other provinces. Moreover, a meeting with the representatives of media has been organized in the Ministry of Foreign Affairs to inform the public through the media on the fight against trafficking in human beings.

The Human Rights Presidency of the Prime Minister's Office organized ten seminars for representatives of the media in May 2003. Seven other seminars for state officials are planned within the framework of a project financed by the Council of Europe. Awareness raising programs are also planned for members of city and town councils.

Within the framework of the World Tourism and Ethical Act, the Ministry of Tourism in July 2002 has prepared

a guide for the use of all the actors of the tourism sector. The Guide has been compiled by the members of 144 countries of the World Tourism Organization and has been accepted by the General Assembly of the United Nations during the 13th Meeting of the UN General Assembly by the majority. It includes regulations to be implemented by all the parties concerned in the tourism sector.

According to the paragraph 3 of the Article 2 of the said guide, countries shall in cooperation with other countries, take the necessary measures in order to prevent all kind of exploitation and especially the exploitation of children. These measures shall not be taken only by the country which is receiving tourists, but also by the country of origin of the person who committed the said offense during his visit."

#### - Training

Anti-trafficking training is an integral part of the general professional training in the Turkish International Academy against Drugs and Organized Crimes. During the 4-week basic training program a full day is allocated to special training on trafficking issues. Participants include police officers as well as other national and regional law enforcement officials.

Trafficking in human beings has also been included in the curricula of the Police Academy for final year students starting from this academic year. Around one thousand students will benefit from this lesson. Additionally, the Turkish Gendarmerie has included as from October 2003 the subject of trafficking in human beings in its education curriculum.

Finally, the Ministry of Interior and the Ministry of Justice are organizing special seminars/training programs to address different aspects of trafficking. Turkish experts take part also in comprehensive training programs organized by the Stability Pact Task Force, ICMPD and IOM.

#### Recent Developments

As a result of the consultations between Istanbul Metropolitan Municipality and Human Resources Development Foundation (IKGV) under the guidance of Ministry of Foreign Affairs, a shelter in Istanbul is provided for the victims of trafficking. A protocol on the establishment of the shelter will be signed between Istanbul Metropolitan Municipality and IKGV during the NATO Summit with the participation of Deputy Prime Minister and Minister of Foreign Affairs Abdullah Gl and United States Secretary of State Colin Powell.

As a result of the operation organized by the Directorate of Security of Erzurum, 11 persons have been arrested and 9 of them have been sent to Court. 3 of them were police officers. An investigation has been launched about those 3 police officers. After their trial, 2 police officers are sentenced to 6 months of imprisonment and to heavy fine. They are also expelled from their profession. One police officer has acquitted. This event shows once again the importance that Turkey attaches to combating trafficking in human beings.

Yalova Criminal Court issued verdict (according to Article 201/b of the TPC) for five defendants on February 11, 2004, four of whom have been confined to imprisonment of 4 years and 2 months and a fine of 1.325.000.000 TL. The accused persons are prohibited from employment in public services for 3 years. On January 2004, with the cooperation of the Ministry of Justice, the IKGV and the British Council, a seminar for judges on trafficking in human beings was organized in Istanbul. The particularity of the seminar was that 40 attorney generals have attended this training.

The Ministry of Interior, ensuring better dialog and co-ordination between the police and the other relevant authorities dealing with human trafficking, has established a specialized unit dealing with trafficking cases on January 2004.

On 19 July 2003 a new Road Transportation Law entered into force. The Road Transportation Regulation has been drafted and will soon be effective. The transportation permit will be cancelled for 3 years if the person is sentenced according to certain crimes and trafficking in human beings and smuggling of migrants.

The Ministry of Labor and Social Security prepared a

sample contract in Turkish and in the language of the applicant for working permit. The sample contract includes clauses on the working conditions, such as the minimum wage. Furthermore the emergency number of the police is mentioned in the contract specimen. The coordinates of the IKGV will also be included.

Although the Law on the Prevention of Money Laundering does not contain provisions that apply to trafficking in human beings, a draft Law on Money Laundering of the Financial Crimes has been prepared by the Financial Crime Investigation Board and submitted to the Prime Ministry. In the draft law, the financial benefit obtained from trafficking in human beings is defined as a financial crime. The money laundering of this benefit is also prescribed as a crime. END TEXT.

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